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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,878	02/14/2002	Francisco Dominguez	TIMEVI 3.0-001	9434
530	7590	03/03/2004	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			KIM, AHSHIK	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/075,878	Applicant(s) DOMINQUEZ ET AL.	
	Examiner Ahshik Kim	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12/1/03 (Amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15,17-36,38-56 and 58-114 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15,17-36,38-56 and 58-114 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the amendment filed on December 1, 2003. In the
5 amendment claims 16, 37, and 57 were canceled; and claims 1, 17, 18, 22, 38, 39, 43, 58 59, 63,
69, 81, 88, and 100 were amended. Currently, claims 1-15, 17-36, 38-56, and 58-114 remain for
examination.

Claim Rejections - 35 USC § 103

10 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

15 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the
manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the
claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various
20 claims was commonly owned at the time any inventions covered therein were made absent any
evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out
the inventor and invention dates of each claim that was not commonly owned at the time a later
invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)
and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

25 4. Claims 1, 2, 4-9, 11, 15, 17-23, 25-30, 32, 36, 38-43, 45-50, 52, 56, 58-65, 67-72, 74, 78-
84, 86-91, 93, 97-102, 104-106, 108, and 112-114 are rejected under 35 U.S.C. 103(a) as being

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unpatentable over DiMaria et al. (US 6,075,455, "DiMaria" hereinafter) in view of Scott et al. (US 6,111,977, "Scott" hereinafter).

Re claims 1, 2, 22, 25, 43, 45, 63, 65, 67, 86, and 100, DiMaria teaches a biometric time and attendance system (see abstract; col. 1, lines 14+) comprising a host 20, which includes a processor and a memory (col. 3, lines 6+), a data input device 10, and an internal clock keeping track of occurrence of access (col. 3, lines 55+), a data interface devices such as a keypad and display device (col. 4, lines 62+). The system keeps track of individual's entry/exit into a particular location and time if desired (col. 4, lines 34+).

DiMaria fails to specifically teach or fairly suggest that the device is a portable unit.

10 Scott teaches a portable fingerprint recognition transmitter used in time and attendance (see abstract, cited publication – Veriprint200 – Fingerprint Verification Terminal For Use With Jantek Time & Attendance Software). As recited in claims 11, 32, 52, 74, 93, and 108, Scott further discloses wireless transmitter/receiver 26 interfacing with host machine (col. 4, lines 1+). Scott teaches a rechargeable batter 42 as a power source for the device as claimed in claims 15, 36, and 56 (col. 4, lines 39+).

In view of Scott's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to further incorporate a portable unit with the same functionality to the teachings of DiMaria in order to provide mobility to the employees, and greater flexibility in defining controlled areas. Although DiMaria's biometric time and attendance device can be removed and installed as the controlled areas change, such change is often costly and inefficient. 20 By augmenting the system with mobile units, the controlled area can be easily adjusted in efficient and easy manner. Moreover, providing the units to selected employees, access-control

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function can be further enhanced, and employee's movement within the controlled area can also be tracked and monitored if desired (e.g., a controlled area is a large warehouse where locating person is difficult without mobile unit), and therefore an obvious expedient.

Re claim 4, since each terminal 10 is located at a location where access control is desired
5 (col. 3, lines 29+), each location can be identified and activities at each location can be tracked and accounted for.

Re claims 7-9, 19, 30, 40, 48-50, 60, 70-72, 89-91, and 104-106, the interface device includes a display device such as LCD (liquid crystal display) and a keypad (col. 3, lines 24+).

Re claims 18, 28, 29, 39, 42, 59, 61, and 62, the display unit 14 (LCD) displays result of
10 the request of prompts the users for more information (col. 3, lines 41-43).

Re claims 20, 21, and 41, although DiMaria et al. does not provide a detailed structure of the terminal 10, it is inherent that the terminal is equipped with memory to store transactional data received from the host and a process controlling other interfaces installed therein such as a scanner, display and keypad.

15 Re claims 23, 64, and 83, since the system generates activity reports by locations (col. 4, lines 34+), location information where the terminals are installed is provided to the processor. Although physical coordinate of location may not be directly provided by the terminals 10, it is inherent that the system keeps track of locations (physical or otherwise) where the terminals are installed for accountability/activity report.

20 Re claims 78, 79, 81, 82, 84, 97, 98, 101, 102, 112, and 113, as shown in figure 1, the plurality of terminals are connected to the host via network (col. 3, lines 6+), and the remote database 60 is also connected to network for providing biometrical information (col. 2, lines

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29+). The remote database is connected via telecommunication network, which can be part of Internet network.

Re claims 17, 18, 38, and 58, as further disclosed in Scott (col. 3, lines 64+), the keyboard can resemble the one used in cellular phone. In fact, it would be well within the ordinary skill
5 in the art to design the portable device resembling a conventional cellular phone which can be folded, containing display in upper portion and keypad and other function keys on lower side. Another common model is a non-folding bar type of device wherein the display and keyboard is variably arranged.

Re claims 5, 6, 26, 27, 46, 47, 68, 69, 87, and 88, initiation and data communication is
10 well known and indispensable for the system comprising multiple devices to achieve designed functionality of the system although such aspect is not explicitly stated in the reference to DiMaria. For example, terminals 10 transmit received data upon receiving biometric information of an employee, and the host machine after comparing the received epidermal information against information stored in the remote database, in turn, transmit the results to the terminal. In
15 case of data overflow or any other interrupt situation, the appropriate message would be conveyed to the user, or the terminal can reset itself requiring the user to initiate the process again (a commonly used interrupt handling method).

Re claims 80, 99, and 114, employee's picture (col. 4, lines 51+) is also contained in the entry-card, allowing security persons to perform visual comparison.

20 5. Claims 3, 10, 24, 31, 44, 51, 66, 73, 85, 92, 103, and 107 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiMaria et al. (US 6,075,455) as modified by of Scott et al. (US 6,111,977) as applied to claims 1, 22, 43, 63, 81, and 100 above, and further in view of

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Lambert (US 6,193,153, "Lambert" hereinafter). The teachings of DiMaria as modified by Scott have been discussed above.

DiMaria/Scott fails to specifically teach or fairly suggest that the biometric capture device comprises a digital camera capturing visual image of a person.

5 Lambert teaches a system and method for biometric information capture (see abstract; col. 1, lines 50-58) in the environment such as filling out employee time cards (col. 3, lines 28-35) wherein the authentication is desired. The embodiment utilizes various user-input device such as camera, trackball, and microphone, capturing various information related to the person (col. 9, lines 28+; col. 17, lines 1-3). Lambert further discloses a touch-sensitive keypad used in
10 the embodiment (col. 12, lines 25+; col. 14, lines 21+) as recited in claims 10, 31, 51, 73, 92, and 107.

In view of Lambert's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to employ additional functionality to verify one's identity by comparing facial images to the teachings of DiMaria/Scott in order to improve overall
15 functionality of the biometric authentication system. Verifying employee's identity by fingerprint and other digitized data comparison (as shown by Lambert) are considered to be functionally equivalent. Accordingly, one would choose a particular embodiment to suit their specific needs and constraints. For example, fingerprint method can be seen as less intrusive compared to facial or retinal verification. One approach can be significantly less expensive
20 compared to other methods. Therefore it is obvious to one ordinary skill in the art to choose any embodiment fitting their situation.

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6. Claims 12-14, 33-35, 53-55, 75-77, 94-96, and 109-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiMaria et al. (US 6,075,455) as modified by of Scott et al. (US 6,111,977) as applied to claims 1, 22, 43, 63, 81, and 100 above, and further in view of Thibault (US 6,421,590, "Thibault" hereinafter). The teachings of DiMaria as modified by Scott
5 have been discussed above.

DiMaria/Scott fail to specifically teach or fairly suggest that the geographical locating device comprises a global positioning system (GPS) receiver.

Thibault teaches a system for recording employee's time and attendance (see abstract; col. 2, lines 48+; col. 5, lines 28+) comprising employee identification system and locating
10 scheme utilizing GPS (col. 10, lines 34+). Entered information is transmitted to the host via various communication network including cellular telephone system (col. 3, lines 54+; col. 4, lines 50+) as claimed in claims 12 and 14.

In view of Thibault's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to employ well-known GPS system to the teachings of
15 DiMaria/Scott in order to continuously monitor employee's location even within the controlled area if desired. Global Positioning System (GPS) is well known in the art, and widely used any environment where locating an object/person is important (e.g. emergency system, driving directions, cellular communications, etc.). Accordingly, such modification would have been an obvious extension as taught by Thibault for tracking locations of company personnel, well within
20 the ordinary skill in the art, and therefore an obvious expedient.

Response to Arguments

7. Applicant's amended claims and arguments filed on December 1, 2003 have been fully considered, but they are not persuasive.

Examiner notes that Applicant amended independent claims in a way that the claimed invention – an apparatus and the method for time and attendance – is clearer than originally presented claims. However, it is the Examiner's opinion that the cited references to DiMaria, Scott, Lambert, and Thibault, taken alone or in combination, still teach claimed subject matter disclosed in the amended claims.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the primary reference to DiMaria the secondary reference to Scott, Lambert, and Thibault are directed to a system and method for time-and-attendance or accountability checking. Accordingly, the features found in one reference (although they need to be reviewed carefully on case by case basis) can be adopted by other references for an obvious improvement or other benefits. For the reasons stated above, the Examiner believes that a proper prima-facie case of obviousness has been established.

Upon further search, however, the Examiner found a reference (US 5,919,239 to Fraker et al.), which perhaps resembles more to the Applicant's embodiment (see abstract; figure 3, col.

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2, lines 38+; col. 4, lines 11+; col. 8, lines 56+; col. 12, lines 48-64). Fraker teaches a self-contained, personally portable time and attendance recording apparatus comprising a processor; a data storage device; a data input device; a clock; a GPS system; a data interface device; a power source and the casing for housing the component parts. Applicant is respectfully suggested to
5 thoroughly review the Fraker patent.

The amended claims and remarks describing these elements have been fully considered, but they are not persuasive, and therefore, the Examiner has made this Office Action final.

Conclusion

10 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after
15 the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Fraker et al. (US 5,919,239) discloses a portable time-and-attendance apparatus comprising GPS and other interface.

5 II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahshik Kim whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday. The fax number directly to the Examiner is (571)273-2393.

10 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

15 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

20 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



25 Ahshik Kim
Patent Examiner
Art Unit 2876
February 14, 2004



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SUPERVISORY PATENT EXAMINER
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